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EQUITY TITLE, LLC,
doing business as
EQUITY TITLE OF NEVADA,

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

EQUITY TITLE, LLC, doing business as
EQUITY TITLE OF NEVADA,

Plaintiff,

vs.

PROFYT ADDYCT, LLC, and STEVEN
GAZLAY, an individual, and DOES 1 through
10 inclusive,

Defendants.

CASE NO. 2:20-cv-01639-APG-BNW

**NOTICE OF EMERGENCY MOTION
AND EMERGENCY MOTION FOR
EXPEDITED DISCOVERY;
MEMORANDUM IN SUPPORT;
[PROPOSED] ORDER THEREON**

PLEASE TAKE NOTICE that Plaintiff EQUITY TITLE, LLC, doing business as EQUITY TITLE OF NEVADA ("Plaintiff"), will and hereby does move on an emergency basis, as soon as this matter can be heard, for a court order granting Plaintiff expedited discovery by Rule 45 subpoena to non-party Bank of America, N.A. ("BoFA"). This emergency motion is made pursuant to Local Rules 7-2 and 7-4, and is based upon the following Memorandum in support, the Declarations of Plaintiff and Plaintiff's counsel filed in support of this Motion, the Complaint of the

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1 Plaintiff, all of the filings, records and proceedings herein, and Rule 30 of the Federal Rules of Civil
2 Procedure.

3 Dated this 11th day of September.

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5 HOLLEY DRIGGS

6 /s/ Marilyn Fine

7 MARILYN FINE, ESQ.

8 Nevada Bar No. 5949

9 400 South Fourth Street, Third Floor

10 Las Vegas, Nevada 89101

11 *Attorneys for Plaintiff Equity Title, LLC.*
12 *doing business as Equity Title of Nevada*
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MEMORANDUM OF POINTS AND AUTHORITIES

As set forth in the Complaint and the Declarations in support of this Motion, Defendants Steven Gazlay (“Gazlay”), and his purported Limited Liability Company Profyt Addyct, LLC, have committed title fraud and wire fraud in addition to violating the Racketeering Influenced Corrupt Organizations Act, 18 U.S.C. § 1961 et seq. (“RICO”).

At the end of last month Gazlay presented falsified corporate records to Plaintiff, a title and escrow company, and a lender, purporting to own residential real property located in Las Vegas, and thereby causing a fraudulent wire transfer in the amount of \$707,375.75 to the BofA account ending in 8373; an account which Gazlay controls. While attempts to seize the fraudulent loan proceeds have been made by the Las Vegas Metropolitan Police Department’s Financial Crimes Division, (Incident Number LLV20090002464), Gazlay has already accessed and attempted to further transfer and conceal from recovery significant portions of the loan proceeds.

Because Rule 45 subpoenas are subject to the same scheduling orders as other forms of discovery, *see Marvin Lumber & Cedar Co. v. PPG Industries, Inc.*, 177 F.R.D. 443, (D.Minn. 1997), through this Emergency Motion for Expedited Discovery, Plaintiff seeks leave to immediately issue a Rule 45 subpoena upon BofA to obtain information related to the receipt and further withdrawal or transfer of the loan proceeds, for the purpose of tracing and ultimately seeking to recover said funds. The court may authorize discovery before the Rule 26(f) meeting for “good cause,” where the need for early and limited discovery outweighs any possible prejudice to the party from whom discovery is sought. *Semitool, Inc. v. Tokyo Electron America, Inc.* 208 F.R.D. 273, 276 (N.D. Cal. 2002).

“Good cause” exists here in that Plaintiff must first learn where Gazlay has transferred the loan proceeds before Plaintiff can seek injunctive relief related to the location of the transferred funds. Here the funds themselves are evidence and may be consumed or destroyed by Gazlay before a temporary restraining order or preliminary injunction may be sought.

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1 This is a specific and limited discovery request where there is no alternative means of
2 obtaining the information, and the adverse party, here the perpetrator of the fraud, has no compelling
3 privacy interest in the information.

4 Dated this 11th day of September.

5 HOLLEY DRIGGS

6 /s/ Marilyn Fine

7 MARILYN FINE, ESQ.

8 Nevada Bar No. 5949

9 400 South Fourth Street, Third Floor

10 Las Vegas, Nevada 89101

11 *Attorneys for Plaintiff Equity Title, LLC.*
12 *doing business as Equity Title of Nevada*

13 **[PROPOSED] ORDER**

14 Having considered the foregoing emergency motion and the matters stated therein, IT IS
15 HEREBY ORDERED that Plaintiff be permitted to issue a Rule 45 subpoena to Bank of America,
16 N.A., pertaining to the account number ending in 8373. The Court finds that there is good
17 cause to grant the motion.

18 **IT IS SO ORDERED**

19 **DATED: September 11, 2020**

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23 **BRENDA WEKSLER**

24 **UNITED STATES MAGISTRATE JUDGE**